

HLD-92 (March 2008)

March 31, 2008

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 08-1359

LAWRENCE B. DICKENS

v.

WARDEN MICHAEL DELOY, et al.
(D. Del. 06-cv-00790)

Present: SCIRICA, Chief Judge, ALDISERT and GARTH, Circuit Judges.

Submitted is Appellant's notice of appeal, which may be construed as a request for a certificate of appealability under 28 U.S.C. § 2253(c)(1); in the above-captioned case.

Respectfully,
Clerk

MMW/SB/ww/slc

ORDER

Appellant's request for a certificate of appealability is denied. Dickens was required to file his petition for a writ of habeas corpus by April 23, 1997, but he did not file his petition until December 27, 2006. See Burns v. Morton, 134 F.3d 109, 112 (3d Cir. 1998). Appellant filed one petition for state post-conviction relief after the imposition in 1996 of the one-year limitations period applicable to federal habeas petitions. By the time the petition was filed in 2002, however, the limitations period had already run, making statutory tolling unhelpful to him. See 28 U.S.C. § 2244(d)(2). Appellant also has not shown that he is entitled to equitable tolling. Therefore, jurists of reason would not debate that the District Court correctly determined that Dickens' petition was time-barred.

By the Court,

/s/ Anthony J. Scirica
Chief Judge

Dated: April 15, 2008

SLC/cc: Lawrence B. Dickens, Esq.
James T. Wakley, Esq.